



**US Army Corps
of Engineers.**

Public Notice

Public Notice No. **05-50**

Date: **July 8, 2005**

Nashville District

Application No. **200500054**

Please address all comments to:
Nashville District Corps of Engineers, Regulatory Branch
3701 Bell Road, Nashville, TN 37214-2660

JOINT PUBLIC NOTICE **US ARMY CORPS OF ENGINEERS** **AND** **COMMONWEALTH OF KENTUCKY**

SUBJECT: Proposed Mining of the Blue Gem and Jellico Coal Seams as Identified under Kentucky Department for Natural Resources (KDNR) #861-0443, Revision #3

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344). Before a permit can be issued, certification must be provided by the Kentucky Division of Water (KDOW), pursuant to Section 401(a)(1) of the CWA, that applicable water quality standards will not be violated. By copy of this notice, the applicant hereby applies for the required certification.

APPLICANT: Jamieson Construction Company
#30 Jamieson Lane
London, Kentucky 40741

AGENT: CBC Engineers & Affiliates, LLC
112 Dennis Drive
Lexington, Kentucky 40503

LOCATION: The proposed permit area is located approximately one mile north of the intersection of Richland Creek Road and U.S. Route 25E in Knox County, Kentucky. The waterway is an unnamed tributary of Middle Fork, a tributary of Richland Creek at Mile 6.1 Right (Cumberland River Mile 634.8 Right). The site is on the Heidrick, KY 7.5 Minute Quadrangle at Latitude 36° 57' 17" North, Longitude 83° 56' 51" West.

BACKGROUND: Jamieson Construction Company has applied to the KDNR for a Surface Mining Control and Reclamation Act (SMCRA) permit for the revision identified as KDNR #861-0443, Revision 3. Mining associated with the original KDNR permit was

incrementally bonded. The applicant mined the areas identified by Increments 1, 2, 3, and 6 in the mid-1990s. They no longer plan to mine the area identified as Increment 5.

The applicant is currently seeking Section 404 approval for a pond and mining cut to facilitate mining identified by Increment 4 which includes a total of 60.3 acres of surface disturbance and 39.56 acres of auger mining. Revision 3 proposes to revise the original mine plan to delete construction of Ponds 4 and 6, Pond Roads 4 and 6, Fill Areas 4 and 6, and add Fill Areas 19 and 20.

The applicant would utilize Fill Areas 3, 19, and 20 during the mining operation (Fill Areas 3, 19, and 20 do not include waters of the U.S). They would not utilize Fill Areas 2, 4, and 5 and therefore are not seeking any Section 404 approval for those areas.

DESCRIPTION: Jamieson Construction Company has applied to this office for an individual DA permit to temporarily discharge fill material into an unnamed tributary to Middle Fork. The work would involve the construction of a sediment pond (Pond 5) and a mine cut along the Jellico seam. The construction of the pond would result in the fill and inundation of approximately 420 linear feet of stream. The mine cut would involve the discharge of fill material into 100 linear feet of stream.

Mitigation for the impact would be performed onsite and through payment into the Kentucky in-lieu-fee program. Onsite mitigation would include the establishment of a new stream channel (100') through the reach impacted by the mine cut and the removal of Pond 5 and restoration of the reach impacted by the sediment pond (420'). The applicant applied the Eastern Kentucky Stream Assessment Protocol to the project to quantify the anticipated impacts and the proposed mitigation effort. A payment of would also be made to the Kentucky in-lieu-fee program to compensate for the Ecological Integrity Units (EIUs) not obtained by the onsite restoration effort.

Mitigation along the reach impacted by the mine cut would occur concurrently with the mining operation. After the mine cut is backfilled to the approximate original contour, an ephemeral stream reach (100') would be restored by mimicking preconstruction profiles and substrate. The reach would include step-pools, randomly placed cobbles and boulders, and woody debris structures.

Mitigation along the reach impacted by the pond would not occur until after the sediment pond is removed in accordance with the SMCRA permit requirements (approximately 5 years). After the pond is removed, a perennial reach (420') would be restored by mimicking preconstruction stream profiles and substrate. The reach would include pool and riffle complexes, randomly placed cobbles and boulders, and woody debris structures. Grasses, forbs, trees and shrubs, would be planted along the corridor for stabilization and to provide wildlife habitat.

General plans of the work and tables listing specific impact reaches and mitigation reaches are attached to this notice. Additional plans and information, including the

mitigation proposal and documentation provided in support of the permit application, are available upon request.

The permit decision will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the work, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the work, will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under authority of Section 404(b)(1) of the CWA (40 CFR Part 230). A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. Comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above and used in the preparation of an Environmental Assessment (EA) and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity. This office will prepare an EA prior to a final decision concerning issuance or denial of the requested DA Permit.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the proposed work. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

Based on available information, the proposed work will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitat, as identified under the Endangered Species Act. Therefore, we have reached a no effect determination. Initiation of formal consultation procedures with the U.S. Fish & Wildlife Service (USFWS) is not planned at this time. A copy of this notice is being furnished to

the USFWS. The USFWS is requested to review the project as currently proposed and comment concerning any likely effect to any threatened or endangered species or their critical habitat.

Other federal, state, and local approvals required for the proposed work are as follows:

a. Water quality certification from the KDOW in accordance with Section 401(a)(1) of the Clean Water Act.

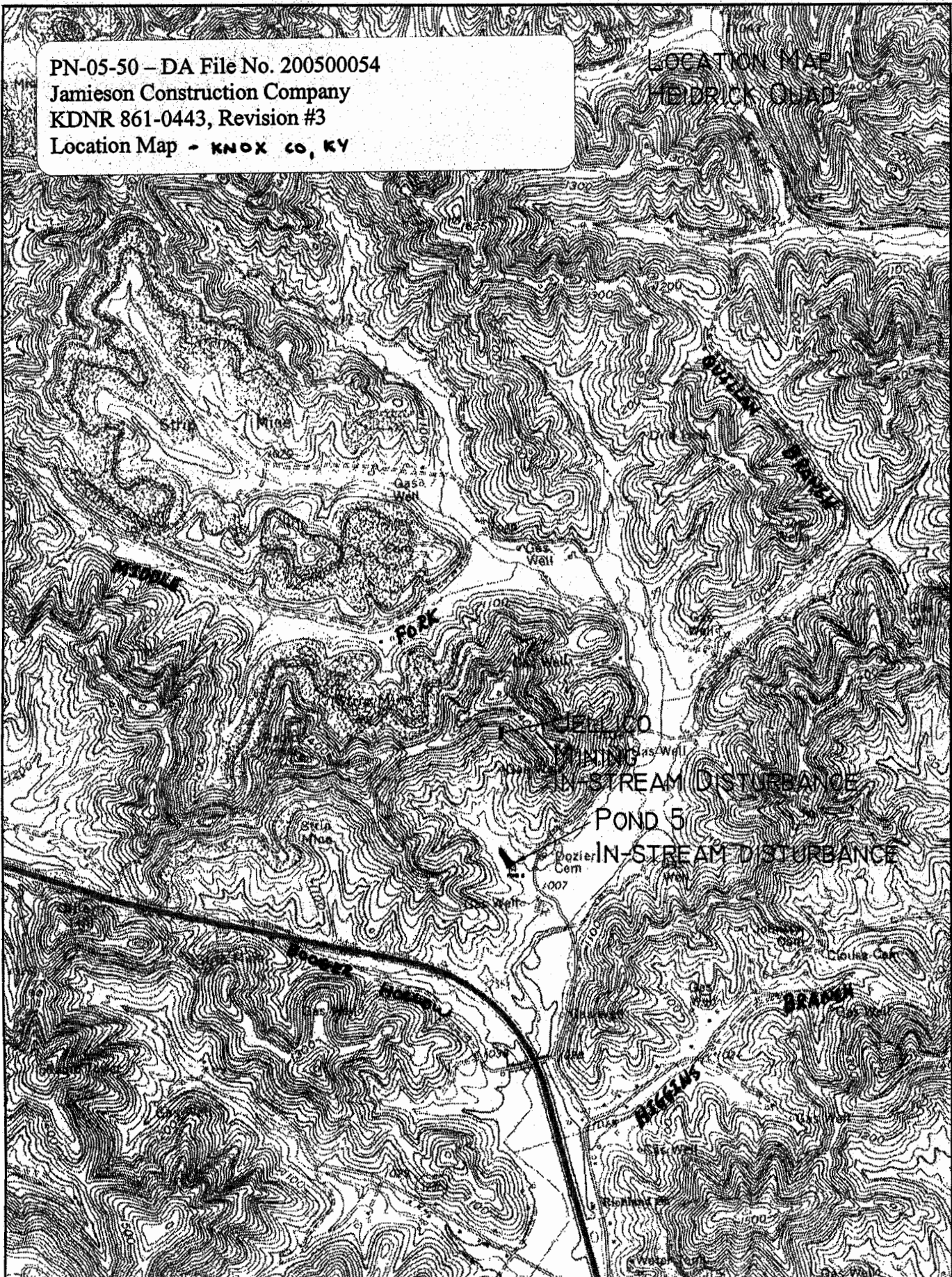
b. A SMCRA permit from the KDNR. The KDNR determined the project to be technically adequate on April 14, 2005.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Written statements received on or before August 7, 2005, will become a part of the record and will be considered in the determination. Written responses to this notice should be directed to the Regulatory Branch, Attention: Mr. Marty Tyree, at the above address. Questions can be directed to Mr. Tyree at (615) 369-7514. It is not necessary to comment separately to the KDOW since copies of the comments will be forwarded to that agency. However, if you wish to send §401 Water Quality Certification specific comments directly to that agency, please send your comments to Mr. Danny Peake, KDOW, 14 Reilly Road, Frankfort, Kentucky 40601.

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Jamieson Construction Company
KDNR 861-0443, Revision #3
Location Map - KNOX CO, KY

LOCATION MAP
HEIDRICK QUAD



CBC ENGINEERS
&
AFFILIATES, LLC

DATE: 12-8-04

JOB NO.: 223-018

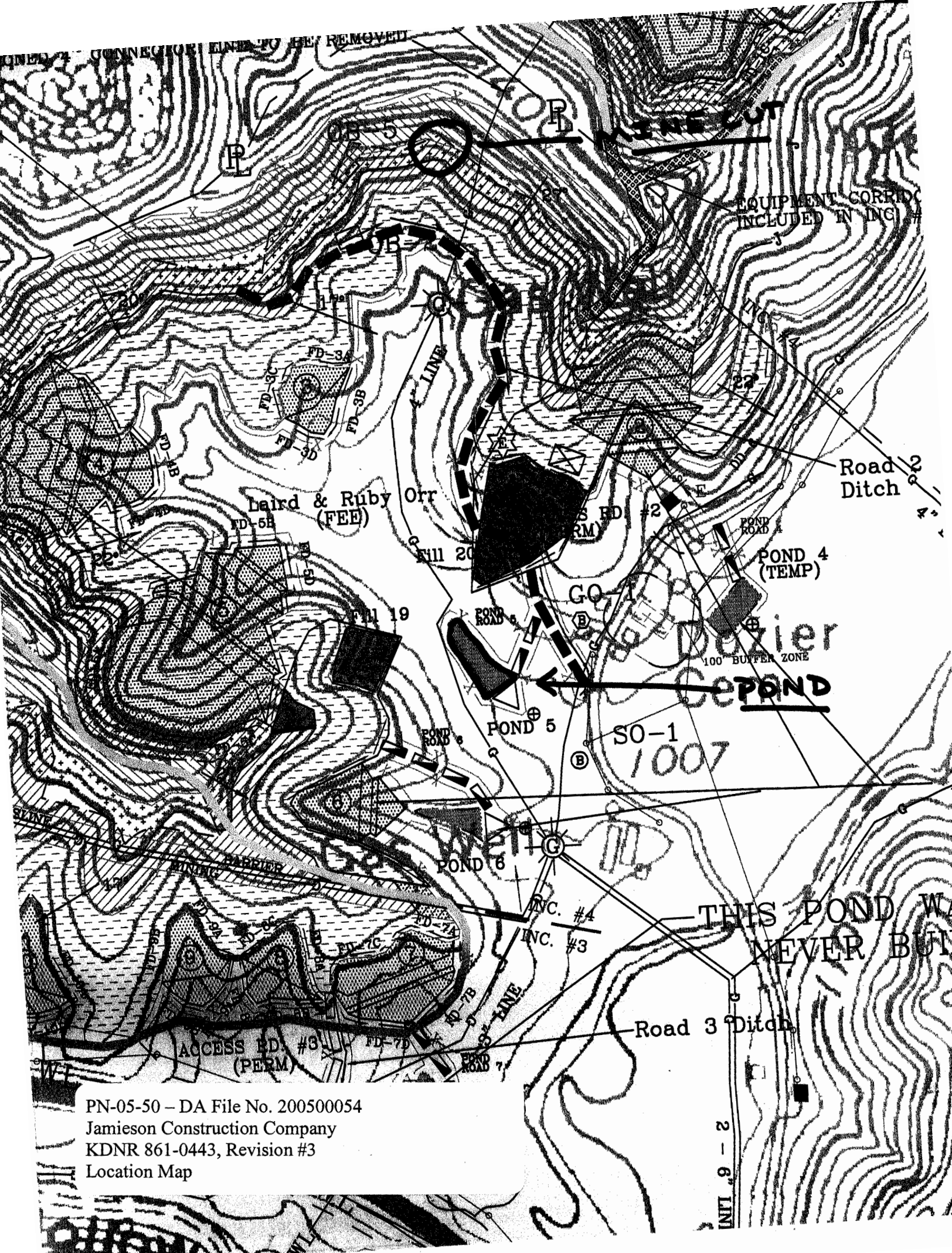
SCALE: 1"=2000'

DESIGNED BY: MS

DRAWN BY: MS

LOC

JAMIESON CONSTRUCTION CO.



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Jamieson Construction Company
KDNR 861-0443, Revision #3
Location Map

2 - 6" LINT

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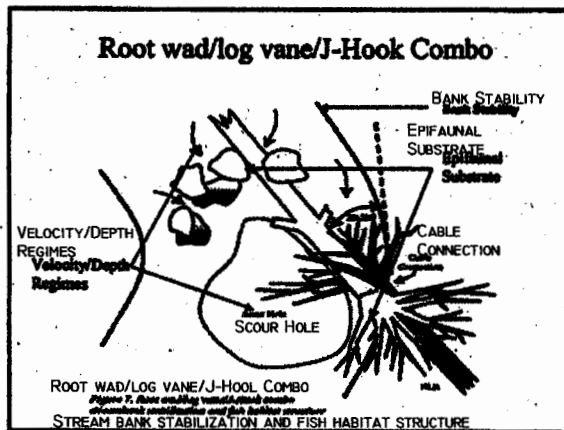
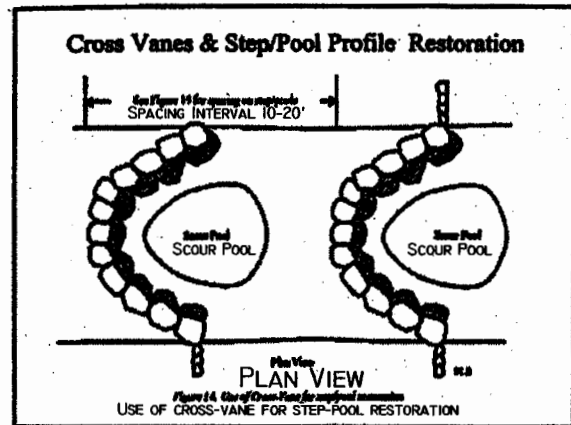
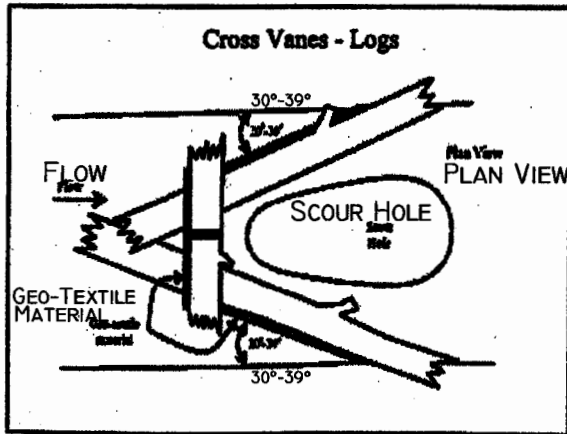
File No. 200500054

Jamieson Construction Company

KDNR 861-0443, Revision #3

Proposed In-Stream Mitigation Feature

X -



IN-STREAM FEATURES

SIGNED BY: MS	KY DNR #861-0443 JAMIESON CONSTRUCTION
AWN BY: JJ	
STREAM	

**Revegetation Table
Riparian Zone Pond 5**

Proposed Postmining Land Use <u>Stream Restoration Areas</u>	Rate per Acre	Acreage	Planting Dates
Permanent Grass: Swithgrass Virginia wildrye	10 lb/ac 10 lb/ac		Spring/Fall
Legumes: Partridge pea Local sunflowers	4 lb/ac 1 lb/ac		Spring/Fall
Trees:(See Notes below)	400/acre		Spring/Fall
Temporary Plants:			
Mulch: Straw/Hay	1.5 tons/ac		Spring/Fall
Small Grains: Annual Rye	25 lb/ac		Spring/Fall

Note: The woody stems should be irregularly placed along the corridor (i.e. avoid the long, linear row appearance). A minimum 70% of woody stems planted should be trees and no more than 25% of the trees should be soft mast producers. One or more of the following shrubs will be planted between the trees;

Persimmon, Eastern redbud, northern spicebush, coralberry, cockspur hawthorn,
Flowering dogwood, alternate leafed dogwood, common buttonbush

The following trees are recommended: Shagbark hickory, Shell bard hickory, Mockernut hickory, Pignut hickory, White oak, Southern red oak, Chinkapin oak, pin oak, Chestnut oak, Bur oak, Post oak, Black cherry, Ohio buckeye, Sycamore, Tulip poplar, red maple, white ash.

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Proposed Plantings